

MINUTES

MONTANA SENATE 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FINANCE AND CLAIMS

Call to Order: By **CHAIRMAN CHUCK SWYSGOOD**, on January 08, 1999
at 1:20 P.M., in Room 108 Capitol.

ROLL CALL

Members Present:

Sen. Chuck Swysgood, Chairman (R)
Sen. Tom Keating, Vice Chairman (R)
Sen. Tom A Beck (R)
Sen. Chris Christiaens (D)
Sen. William Crismore (R)
Sen. Eve Franklin (D)
Sen. Bob Keenan (R)
Sen. J.D. Lynch (D)
Sen. Dale Mahlum (R)
Sen. Ken Mesaros (R)
Sen. Arnie Mohl (R)
Sen. Linda Nelson (D)
Sen. Debbie Shea (D)
Sen. Mike Taylor (R)
Sen. Mignon Waterman (D)

Members Excused: Sen. Greg Jergeson (D)
Sen. Ken Miller (R)
Sen. Daryl Toews (R)

Members Absent: None.

Staff Present: Clayton Schenck, Legislative Fiscal Analyst
Shannon Gleason, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 46, SB50, HB1, 1/4/1999
Executive Action: SB 17, SB 50, HB 1

HEARING ON HB1

Sponsor: REP. TOM ZOOK, HD 3, MILES CITY

Proponents: None

Opponents: None

Opening Statement by Sponsor:

REP. TOM ZOOK presented HB1 a.k.a. the Feed bill. REP ZOOK noted the largest increases were due to retirement and Workers Compensation. REP. ZOOK indicated there were provisions for attorney fees the state was required to pay in the lawsuit involving caucus meetings, and that each House was paying half. REP. ZOOK acknowledged these figures were based on experience and put together by Bob Person, Legislative Service Division. The large increase in retirement was due to several long term legislators retiring this year.

Questions from the Committee and Responses:

SEN. BECK asked if the bill had been amended, REP. ZOOK responded that the bill had been amended as follows: the monies for retirement was segregated by House, and a reduction in both the House and Senate leadership travel. These reductions totaled \$12,000, \$6,000 in each house.

SEN. LYNCH questioned the retirement account figures. REP. ZOOK referred the question to Bob Person, Legislative Services Division, who advised they have been working diligently to compile these figures and feel they are fairly accurate.

Closing:

REP. ZOOK had no closing statement.

HEARING ON SB 50

Senator Keating took Chair.{Tape : 1; Side : A; Approx. Time Counter : 6}

Sponsor: SENATOR CHUCK SWYSGOOD, SD 17, DILLON

Proponents: None

Opponents: None

Opening Statement by Sponsor:

SENATOR CHUCK SWYSGOOD advised this bill was requested by the Legislative Finance Committee in response to SB 378 passed in the 1993 session whereby all statutory appropriations and earmarked monies must be reviewed by the Legislative Finance Committee.

SEN. SWYSGOOD advised the Legislative Finance Committee would like to be able to use their discretion as to what accounts are to be reviewed. **SEN. SWYSGOOD** also noted the reduction in accounts being reviewed and stated he feels the former statute has served it's purpose.

Questions from the Committee Members:

SEN. TOM KEATING stated it was the policy after review to have as few accounts with earmarked funds as possible.

Closing by Sponsor: None

HEARING ON SB 46

Sponsor: CHAIRMAN CHUCK SWYSGOOD, SD 17, DILLON

Proponents: None

Opponents: Frank Cote, Deputy Insurance Commissioner

Opening Statements by Sponsor:

SEN. CHUCK SWYSGOOD advised currently statute requires monies received by fines or forfeitures be deposited into the General Fund, unless otherwise provided for by law. This bill amends the verbiage to include stipulations and settlements agreed upon by agencies. This bill will require any agency that accepts a settlement to deposit the monies received into the account the monies would have been credited to if the settlement was not reached. If there is no set provision by law, the funds would go to the General Fund. Currently it is up to the discretion of the agencies to use the money where they want. **SEN. SWYSGOOD** advised this bill also provides for monies that the state would receive if the state was sued and then countersued and won. The monies received from the lawsuit would also revert into the General Fund unless otherwise provided for by law.

Opponents' Testimony:

Frank Cote advised the committee he felt this bill was a result of a settlement made between the Auditors' office and Washington National Insurance Company. **Mr. Cote** expressed concern that this bill may make it more difficult for his office to offer and accept settlements. **Mr. Cote** explained it is possible to make settlements for items a court would not grant and persons are more likely to settle if they can avoid litigation, he also noted it is very costly to pursue litigation in court. **Mr. Cote** commented the Auditors' office felt they have not been abusing the settlement authority. **Mr. Cote** gave two examples of settlements reached that could not have been made in court: a suit with Washington National Insurance Company and a suit with private individuals.

Question From the Committee:

SEN. BECK inquired why this bill would affect settlements. The response from **Mr. Cote** was that in the case with Washington National Insurance Company the settlement was tax deductible and if the monies went into the General Fund they would not have been. **SEN. BECK** commented if the company was in the wrong who cares if the settlement was tax deductible. **Mr. Cote** noted the company was allegedly in the wrong and it would have been very costly to prove the case. **SEN. BECK** expressed that he felt very strongly the legislature should have the authority on the expenditure of the dollars.

SEN. TAYLOR commented he felt that companies usually settle only when they believe there is a strong case against them. **Mr. Cote** noted that he can't necessarily disagree with that and that is usually the case, however he was not sure why they settled.

SEN. WATERMAN asked involving the case of the private individuals, would there still have been a settlement, **Mr. Cote** responded yes, however it would have been more difficult, and felt it was possible to circumvent the law by having the money go directly to someone else, i.e. a television station instead of the General Fund. **SEN. WATERMAN** then asked if one could circumvent the General Fund if the bill passed, **Mr. Cote** responded it would be difficult to do and would only be applicable in very specific examples.

SEN. LYNCH wondered if there was any room for negotiations or compromise to this bill, while he did believe the money from the insurance company was improperly used to create CHIPS, he questioned if this bill would impact the agencies in a way that

settlements couldn't be reached. **SEN. SWYSGOOD** advised this would not preclude settlements, it states that any monies not already provided for by law would go into the General Fund.

SEN. FRANKLIN wanted clarification on what other agencies do with settlements and wanted to be sure all agencies operated under the same guidelines. **SEN. SWYSGOOD** advised most of the time the settlements are provided for by law and all agencies would be operating the same, this only adds the words fines and forfeitures go into the General Fund.

SEN. KEATING pointed out to **SEN. FRANKLIN** the lending of funds to the Attorney General's Office for the **ARCO** case and in the settlement the costs were recovered and the money went back into the General Fund. **SEN. KEATING** stressed the wording is unless otherwise provided for by law the money would revert into the General Fund.

SEN. MOHL stated settlements aren't always cash, and in the case in Missoula there was no bearing. **SEN. MOHL** wondered if the Auditors' Department sued someone and lost, where would the loss come from? The response from **SEN. SWYSGOOD** was the General Fund.

SEN. J.D. LYNCH questioned **MR. Cote** if he disputed or agreed with **SEN. SWYSGOOD**'s testimony that this bill did not stop or limit the negotiations for settlement. **MR. Cote** responded that it does not stop his office from negotiating, but it will make it more difficult in certain circumstances to come up with consent agreements. **MR. Cote** used **Greenway** in Butte as an example of a settlement that might have been affected.

SEN. CHRISTIAENS commented he was concerned about the monies from some lawsuits, such as **ARCO**, not being spent on what they were intended for, and the legislature possibly taking that money and spending it somewhere else. **SEN. TOM KEATING** again stressed the verbiage, "what is not already provided for by law".

SEN. CHRISTIAENS commented with an insurance company the adverse publicity of a lawsuit will normally get them to the table and just the threat of a lawsuit will open the door to the settlement.

Closing by sponsor:

SEN. SWYSGOOD advised he was really concerned with the accountability of funds, and where the funds were going. **SEN. SWYSGOOD** stressed if a consent agreement was reached and the funds were provided for by law, they go when they are provided

for, otherwise the money should go into the General Fund and fall under the control of the Legislature. **SEN. SWYSGOOD** was very concerned that an agency could start a program through a consent decree that future legislatures and taxpayers would have to provide funds to continue. **SEN. SWYSGOOD** advised this bill would prevent this from happening again. {Tape : 1; Side : A; Approx. Time Counter : 36}

EXECUTIVE ACTION ON HB1

CHAIRMAN SWYSGOOD distributed copies of Amendments HB000104.agp **EXHIBIT**(fcs05a01) and HB000103.agp **EXHIBIT**(fcs05a02).

Motion/Vote: **SEN. LYNCH** moved that HB 1 BE AMENDED. Motion for amendment HB000104.agp carried unanimously.(15-0)

Discussion: **SEN. SWYSGOOD** advised this amendment was a result of losing the case involving open caucus meetings, this money will be used to pay for the fees. **SEN. SWYSGOOD** advised each house was paying half.

Motion: **SEN. LYNCH** moved that HB1 BE AMENDED with HB000103.agp.

Discussion: **SEN. SWYSGOOD** advised this amendment put back the Leadership travel monies for the Senate only, **SEN. SWYSGOOD** commented he didn't care if the House took their monies but wanted the Senate monies left alone.

SEN. KEATING asked if this would then up in conference hearings, **SEN. SWYSGOOD** advised it could, it depended on if the House wanted to argue about it.

SEN. FRANKLIN commented she supported this measure and noted she felt leadership should have some funds for travel.

Vote: Motion carried 15-0 to accept amendment HB000103.agp.

Motion/Vote: **SEN. SWYSGOOD** moved that HB1 BE CONCURRED IN AS AMENDED. Motion carried unanimously.(15-0)

{Tape : 1; Side : A; Approx. Time Counter : 39.9}

EXECUTIVE ACTION ON SB 17

Motion/Vote: SEN. CHRISTIAENS moved that SB 17 DO PASS. Motion carried 13-2 with Waterman voting no.

{Tape : 1; Side : B; Approx. Time Counter : 0}

EXECUTIVE ACTION ON SB 50

Motion/Vote: SEN. BECK moved that SB 50 DO PASS. Motion carried unanimously. (15-0)

ADJOURNMENT

Adjournment: 2;15 P.M.

SEN. CHUCK SWYSGOOD, Chairman

SHANNON GLEASON, Secretary

CS/SG

EXHIBIT (fcs05aad)